



46TH ANNUAL INDIANA CONSORTIUM

of

STATE AND LOCAL HUMAN RIGHTS AGENCIES CONFERENCE

PRESENTED *by:*



**Hate Crimes
And
Crimes Against
RELIGIOUS PROPERTY
RELIGIOUS PRACTICE**



CR

Who is

CRS ?

COMMUNITY
RELATIONS
SERVICE

Created
Civil Rights

Created by Title X of the
Civil Rights Act of 1964

CRS, a U.S.
Federal agency

CRS, a U.S. Department of Justice
agency, is the Federal government's

“peacemaker”

“peacemaker”

for community
conflicts and
tensions arising
from differences
of race, color,
and national
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Photo: President Lyndon Baines Johnson signs the Civil Rights Act of 1964, surrounded by civil rights and congressional leaders. Taken from the 2015 Annual Report.





Who is
CRS COMMUNITY RELATIONS SERVICE ?

Services expanded under the Hate Crimes Prevention Act of 2009, CRS acts to prevent and respond to violent hate crimes:

- Gender
- Gender Identity
- Sexual Orientation
- Religion
- Disability
- Race
- Color
- National Origin

Source: Getty Images: 92430581

FOUNDATIONAL VALUES OF CRS SERVICES



CRS SERVICES

► Facilitation

Guided process that bring parties together to clarify information, identify issues, and develop solutions



► Mediation

Structured problem-solving process that develops agreements between parties



► Consultation

Technical assistance, best practices, models, and evidence-based resources



Photos: Shutterstock 76419184,108822983; Group marching (CRS); Dr. King marching (CRS)

► Training

Knowledge or skills-based programs



CRS SERVICE AREAS



Administration of Justice

- Police-community relations
- Controversial incidents
- Alleged bias or hate incidents/crimes



Education

- Intergroup tensions in schools
- Alleged Bias or hate incidents/ crimes in schools
- Alleged bullying



General Community Relations

- Demographic shifts
- Language-based conflicts
- Public demonstrations or controversial events
- Alleged bias or hate incidents/crimes

CRS PROGRAMS

Administration of Justice

- ▶ Law Enforcement and the Transgender Community
- ▶ Strengthening Police and Community Partnerships (SPCP)
- ▶ Engaging and Building Partnerships with Muslim Americans
- ▶ Engaging and Building Partnerships with Sikh Americans
- ▶ Customized Information and Education Sessions



Education

- ▶ School-Student Problem Identification and Resolution of Issues Together (School-SPIRIT)
- ▶ Campus-Site Problem Identification and Resolution of Issues Together (Campus-SPIRIT)
- ▶ Customized Information and Education Sessions



General Community Relations

- ▶ City-Site Problem Identification and Resolution of Issues Together (City-SPIRIT)
- ▶ Protecting Places of Worship
- ▶ Dialogue on Race
- ▶ Bias Incidents and Hate Crimes Forums
- ▶ Customized Information and Education Sessions



OBJECTIVES

- Enhance your ability to identify, respond to Community conflict, tensions and hate crime/incidents
- Enable you to work more effectively in your community
- Provide you with additional tools for assisting victims and preventing hate crimes or tension breeding incidents





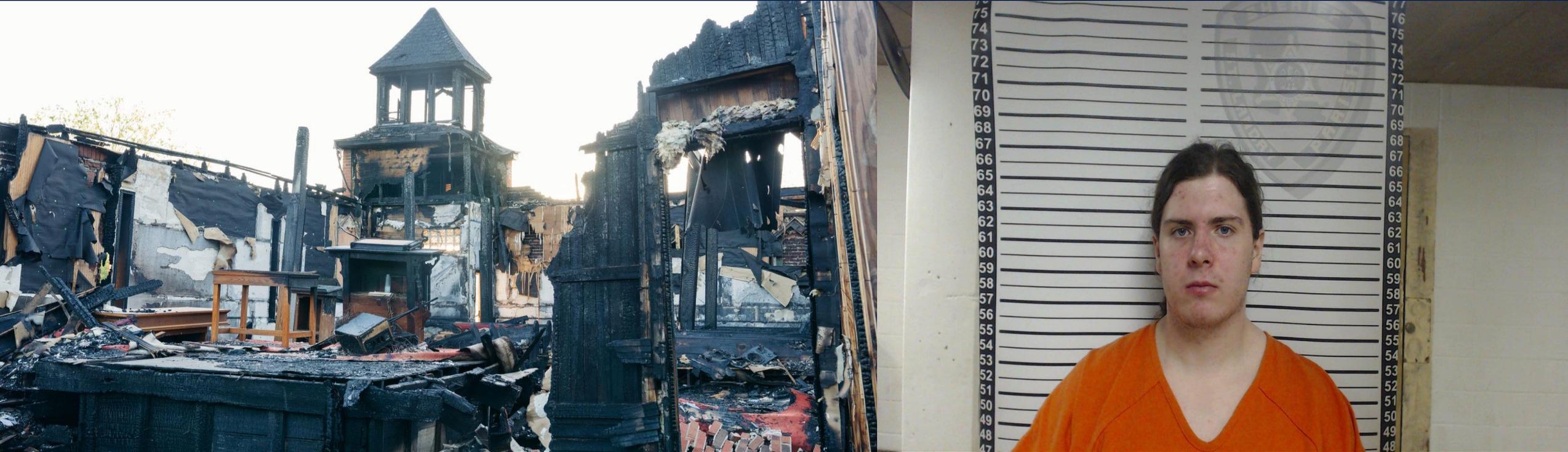
Roof's stated goal: "To increase racial tensions across the Nation," and to seek "retribution" for perceived wrongs African Americans have committed against white people.

FEDERAL TRIAL AND SENTENCE



- On December 15, 2016, a federal jury convicted Roof of 33 crimes, including hate crimes and firearms offenses.
- Roof was later sentenced to death.

HOLDEN MATTHEWS CHARGED WITH FEDERAL HATE CRIMES FOR SETTING FIRE TO 3 ST. LANDRY PARISH CHURCHES



Holden Matthew, the son of a local sheriff's deputy, allegedly set fire to three African American churches (St. Mary Baptist Church in Port Barre, Louisiana, on March 26, Greater Union Baptist Church in Opelousas, Louisiana on April 2, and Mount Pleasant Baptist Church in Opelousas, Louisiana on April 4) over the span of 10 days in St. Landry Parish, Louisiana, because of "the religious characters of the properties." Matthew is being charged with three felony counts of intentional damage to religious property, which is a hate crime

2 CHARGED IN VANDALISM OF NORTHWESTERN INDIANA CHURCH – HAMMOND, IN

HAMMOND CHURCH VANDALISM ARRESTS



AARON VANOPPENS



NICHOLAS REDING



On June 2, 2019, Aaron James Vanoppens, 23, and Nicholas Dylan Reding, 22, were charged with one count each of felony burglary and felony institutional criminal mischief. Police said the men were responsible for the vandalism of the Faith United Church of Christ on May 29. A custodian walked into the building around 7 a.m. that day and saw the destruction left behind. Windows were smashed, bathroom sinks and mirrors were broken, and offices were trashed. The people responsible also wrote "Hail Satan" inside the church. © WGN-TV/TNS

CHABAD OF POWAY SYNAGOGUE SHOOTING SUSPECT PLEADS NOT GUILTY TO NEW CHARGES- ONE DEAD - 2 SHOT INJURED



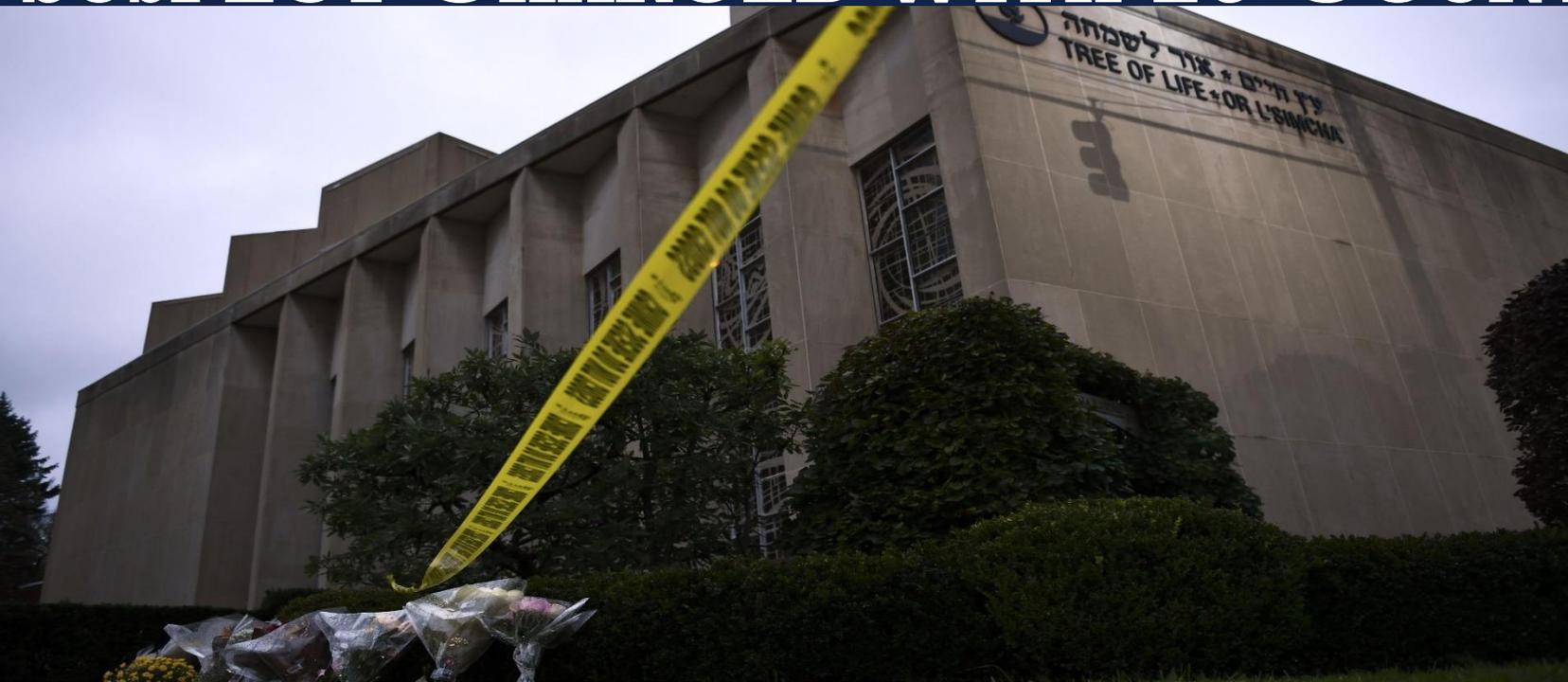
On Tuesday, May 28, 2019 John T. Earnest pleaded not guilty to federal hate crimes and other charges. Earnest faces state charges of murder and attempted murder in the April 27 assault on the Chabad of Poway synagogue. John T. Earnest entered the plea a week after a grand jury returned a 113-count indictment that largely mirrors a complaint filed shortly after his arrest on April 27. The indictment added four counts of using and carrying a firearm during commission of a violent crime. Two days after the shooting, the family said their son's actions "were informed by people we do not know, and ideas we do not hold." Both federal and state crimes make him eligible for the death penalty if convicted but prosecutors have not said if they will seek it.

MAN CONVICTED IN DEADLY CHURCH SHOOTING IN TENNESSEE



On May 24, 2019, Emanuel K. Samson, 27, was convicted Friday of first-degree murder in a 2017 church shooting in Nashville, Tennessee. A jury in Samson of first-degree murder in a deadly [shooting at a Tennessee church in 2017](#) that prosecutors suggested was motivated by revenge for the church massacre carried out by a white supremacist in Charleston, S.C., in 2015. Emanuel K. Samson, was found guilty on all 43 counts in the indictment. Prosecutors are seeking a life sentence without parole. Jurors deliberated less than five hours before finding Mr. Samson guilty in the Sept. 24, 2017, shooting, which left one person dead

11 KILLED IN TREE OF LIFE SYNAGOGUE MASSACRE; SUSPECT CHARGED WITH 29 COUNTS



On October 27, 2018, armed with an AR-15-style assault rifle and at least three handguns, 46-year-old Robert Gregory Bowers shouting anti-Semitic slurs opened fire inside the [Tree of Life Synagogue Congregation](#) during morning Shabbat services in [Pittsburgh, Pennsylvania](#), killing at least 11 congregants and wounding four police officers and two others. He was arrested and charged with 63 federal crimes and [capital crimes](#). He has pleaded not guilty. He separately faces 36 charges in Pennsylvania state court. Prior to the shooting, Bowers posted anti-Semitic comments against the [Hebrew Immigrant Aid Society](#) (HIAS) in which [Dor Hadash](#) and Tree of Life were supporting participants. "HIAS likes to bring invaders in that kill our people. I can't sit by and watch my people get slaughtered. Screw your optics, I'm going in."

LAW ENFORCEMENT'S ROLE

Preventative



Reactive

- **Federal Criminal Statute**
 - **18 U.S.C. § 247**
- **Originally enacted in 1988**

DAMAGE TO RELIGIOUS PROPERTY



OBSTRUCTING THE FREE EXERCISE OF RELIGION



USED ONLY ONCE AFTER ENACTED

- Prosecute religiously motivated murders of individuals who had left a religious group – Church of the Lamb of God
- *United States v. Barlow*, 41 F.3d 935 (5th Cir. 1994).

18 U.S.C. § 247

- To intentionally deface, damage, or destroy religious real property
- To intentionally obstruct, by force or threat of force, any person in the enjoyment of that person's free exercise of religious beliefs, or attempts to do so

1988 ACT

- Defendant in committing the offense had to travel in interstate commerce or use a facility or instrumentality of interstate commerce
 - Damage had to be greater than \$10,000.00



INTERSTATE COMMERCE REQUIREMENT

WHAT IN INTERSTATE COMMERCE MEANS

- Interstate Commerce includes the movement of goods, money, or individuals between states
- Individual in committing the offense had to travel across state lines
- In committing the offense had to use a facility, or instrumentality of interstate or foreign commerce

STATUTE AMENDED IN 1996

- Amended in response to a wave of church fires during 1995 and 1996
 - Predominately African American Churches
 - Signed into law on July 3, 1996 by President
 - Clinton

THE CHURCH ARSON PREVENTION ACT



Church Arson Prevention Act
18 U.S.C. § 247

§247 – DAMAGE TO RELIGIOUS PROPERTY (“CHURCH ARSON STATUTE”)



- Statute has 3 parts, prohibiting:
- Damage to Church property **because of the religious** nature of the property.
- Obstruction, *by force or threat of force*, with a person’s exercise of religious beliefs
- Damage to religious real property **because of race, color, or ethnicity** (of the congregation)



18 U.S.C. § 247



RELIGIOUS PROPERTY

- Church, Synagogue, and Mosque
- Religious Cemeteries
- Property owned or leased by a non-profit affiliated organization

CHURCH ARSON PREVENTION ACT 1996

- Section 247(f)
- Includes as property - fixtures or religious objects contained within the place of religious worship and attached to the property

CHURCH ARSON PREVENTION ACT 1996

- Notice that 1988 act did not have any bias motive
- Amended Act added a bias motive of race, color, or ethnic characteristics of any individual

18 U.S.C. § 247(c)

DAMAGE TO RELIGIOUS PROPERTY

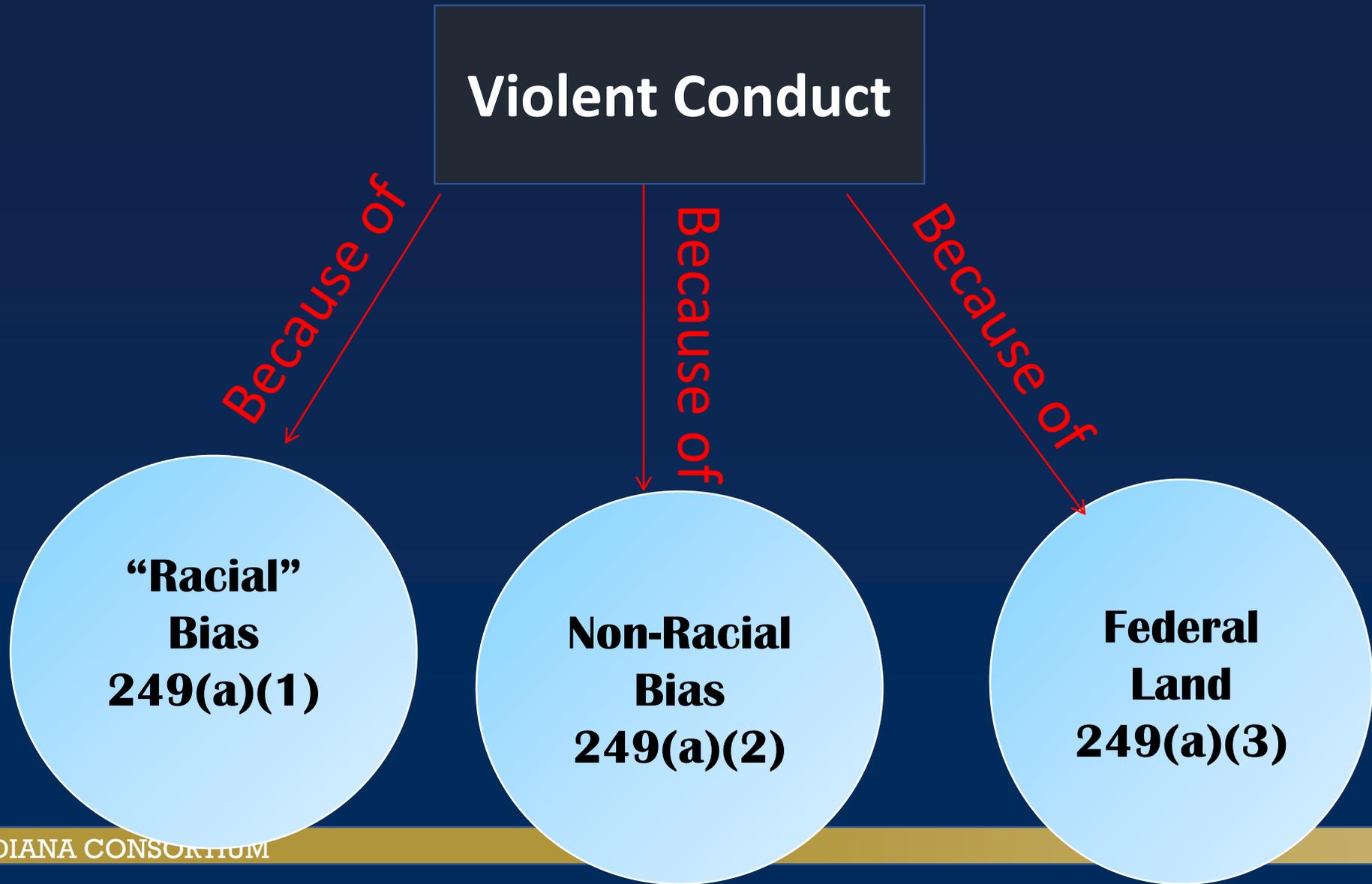
- Intentionally defaces, damages, or destroys any religious real property because of the race, color, or ethnic characteristics of any individual associated with that religious property, or attempts to do so

MATTHEW SHEPARD AND JAMES BYRD, JR. HATE CRIMES PREVENTION ACT

Public Law No. 111-84

- **The HCPA gives the Department of Justice (DOJ) the power to investigate and prosecute bias-motivated violence where a perpetrator has selected a victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability.**
- DOJ can provide aid state and local jurisdictions with investigations and prosecutions of bias-motivated crimes of violence.
- Authorizes DOJ to provide grants to state and local enforcement to cover the extraordinary expenses associated with the investigation and prosecution of hate crimes.
- Authorizes the provision of grants for local programs to combat hate crimes committed by juveniles, including programs that train local law enforcement officers in identifying, investigating, prosecuting and preventing hate crimes.
- Furthermore, the HCPA requires the Federal Bureau of Investigation to track statistics on hate crimes based on gender and gender identity.
- Authorizes FBI to investigate and CRS to provide prevention services and assistance

SECTION 249(A)(1)



SECTION 249(A)(1) “RACIAL” HATE CRIMES

- Prohibits committing violent conduct because of:
- Actual or perceived
 - race
 - color
 - religion
 - national origin

Of any person



Non-Racial Bias 249(a)(2)

- The Thirteenth Amendment does not provide Congress power to protect against discrimination based upon
 - gender
 - sexual orientation
 - disability
 - gender identity
 - any religion or national origin not considered to be a race in 1865

THIRD SUBSECTION: HATE CRIMES ON FEDERAL LAND 249(A)(3)

- Committing violent conduct because of:

- Actual or perceived

- race

- color

- national origin

- religion

- disability

- sexual orientation

- gender

- gender identity

- ☐ IF committed in
Special Maritime and
Territorial Jurisdiction

Of any person

NATURE OF HATE CRIMES

- Uniquely Violent – not random, premeditated acts that are often manifested in physical rage
- Victim Trauma – emotional and psychological damage heightened
- Threat to Community Stability – incendiary nature of the crime is a catalyst for community wide response
- Community Relations Problem for ?– will either improved or damage i.e./community relations depending on response

WHO COMMITS HATE CRIMES?

- Not usually organized groups
- Ordinary People
- Ordinary Circumstances
- Those who channel hatred toward a ethnicity, group, or segment of society
 - Thrill seeker
 - Reactive offenders
 - Mission offender



Victims May Feel

- Isolated
- Degraded
- Frightened/Terrified
- Suspicious of others
- Powerless
- Depressed
- In a state of denial



Concern about hate incidents and violence is raised during periods of:

- public controversy
- terrorist incidents
- legislative debate and/or change
- public policy change
- economic downturn and/or competition
- investigation
- trial verdicts
- report releases
- rapid change in community demographics

Effects of Hate Crimes

- Victims and Neighborhoods
- Embarrassment
- Polarization
- Community spirit diminished
- Increased Tensions
- Law Enforcement at risk
- Finances
- Community identification
- Reduced Property Values
- Fear
- Anger
- Frustration
- Confusion
- Feeling Un-Safe

WHAT IS BIAS

- “HATE CRIME”
 - Versa
 - BIAS

BIAS

- Bias is not necessarily “Hate”
 - The crime does not need to be based on “rage”
- “Hate” is not an element of the crime to be proved

BIAS

- A Bias crime is a criminal offense against a person or property motivated by some form of bias against the victim or the victim's family, friends, or associates
- Prejudice based on **RACE, COLOR, or ETHNIC CHARACTERISTICS**

ATTEMPT

- Must prove that the subject intended to cause damage etc. and
- He or she took a substantial step towards committing the substantive offense

CHURCH ARSON PREVENTION ACT 1996

- As long as there is the bias stated in 247(c)
- There is no interstate commerce requirement

§247 – DAMAGE TO RELIGIOUS PROPERTY (“CHURCH ARSON STATUTE”)



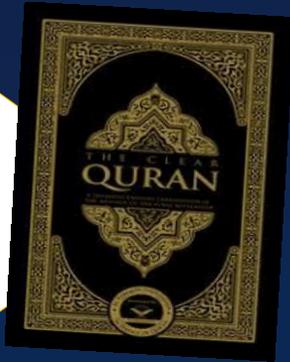
- Damage to Church property **because of the religious** nature of the property.
- Obstruction, *by force or threat of force*, with a person’s exercise of religious beliefs

18 U.S.C. § 247(B) CHANGE

- The Offense must be **in or affecting** interstate or foreign commerce
 - Affecting means have a relationship to interstate commerce
 - Some nexus to interstate commerce

“IN OR AFFECTING INTERSTATE OR FOREIGN COMMERCE”

- Gift Shop?



U.S. v. WALLACE – INTERSTATE COMMERCE

- Wallace used his cell-phone to make the call. Also, he used it earlier in the day to search the internet to locate the mosque.



§247 – EXAMPLES

- **Damage b/c of race:**
 - Racial vandalism to African American church or church cemetery



BECAUSE OF...

- Act was committed “because of” the actual or perceived bias (*race, color, religion, etc.*)
- “Because of proof” is “but for” causation
- *“But for” his bias against Jewish or Arabs, or “African American people the crime would never have occurred.*
- *“But for” his bias against Mormons the crime would never have occurred.*

§247 – EXAMPLES



- **Damage b/c of religion:**
 - Arson at one LDS church and vandalisms at others (NM)
 - Arson and satanic graffiti at Catholic church (TX)

FELONY OR MISDEMEANOR:

- Felony Factors:

- Bodily Injury
- Use, Attempted Use, or Threatened Use of a Dangerous Weapon, Explosives, or **Fire**
- Death, Kidnapping, Aggravated Sex Abuse, Attempt to Kill



WHAT IS A DANGEROUS WEAPON?

- Fire
- Firearm
- Explosive device
- Incendiary device
- Any other dangerous weapon

18 U.S.C. § 247(D) - PENALTY

DAMAGE TO RELIGIOUS PROPERTY

- If **bodily injury** to any person or if it includes the use, attempted use, or threatened use of a **dangerous weapon, explosives, or fire**
 - Not more than 20 years

- If bodily injury results and the violation is by means of fire or an explosive
 - Not more than 40 years

- If death results or violation is
- Kidnapping or an attempt to
- Aggravated sexual abuse or attempt to
 - An attempt to kill
 - Penalty is a term of life

ISSUE FOR STATUTES THAT COVER THREATS

Free Speech



HATE SPEECH = FREE SPEECH

- Even hate speech is Free Speech (if it is not threatening)
- Protected speech:
 - Displaying objectionable signs on private property
 - Organizing a public gathering to promote hate
 - Circulating offensive materials
 - Posting bigoted views online



“TRUE THREATS”

- ▶ The First Amendment does NOT protect threats.
- ▶ So what constitutes a threat?
- ▶ Supreme Court: A “true threat”:
 - Is “a serious communication of an intent to commit an act of **unlawful violence** against an individual or group.”
 - Puts the recipient in fear of **bodily** harm

OVERALL CONTEXT OF THREAT



Free Speech or Threat?

- *Clarity of the threat* (I will slit your throat v. I wish you were dead)
- *Directness of the threat* (letter taped to front door v. card on a car at a nearby mall)
- *Manner of delivery* (letter in mail v. comment on racist blog)
- *Relationship between threatener and threatenee* (comment from a person who has threatened the church in the past v. from a stranger)

U.S. v. WALLACE – THE TELEPHONE THREAT

“F- Muslims, F- Mohammed, F- the Koran and F- Islam . I hate Muslims, Muslims are terrible. I hate you people. **I'm gonna go down to your center, I'm gonna shoot all ya'll.** F- you, I hate your Allah, I hate your Koran, I hate everything about Islam .

You people are worthless sh*t. Go to hel*. F- you.”

U.S. v. WALLACE – THE REACTION MATTERS

- The member of the Mosque called 911 and secured the doors of the Mosque.
- Some congregants were scared to come to prayer services.
- A couple of people dropped out of the congregation.
- The Mosque arranged for law enforcement security.

IMMEDIATE REACTION TO HATE CRIMES

- Control the Message, Control Rumors and Centralize Communications; Use Social Media
- Advise elected leaders on ways to bring calm and restore harmony.
- Bring community and religious leaders together to gather support
- Hold community reconciliation dialogues
- Limit outside interference

LONG TERM REACTION TO HATE CRIMES

- Convene/develop work groups such as ad hoc committees, task forces and coalitions of concerned organizations and/or agencies
- Develop community education projects such as conferences, forums, workshops in collaboration and co-sponsorship with community members, religious leaders and law enforcement and municipal and county other agencies.
- Provide follow up recommendations from public meetings to community leaders, local government and law enforcement to build trust.
- Provide conflict management/dispute resolution services; mediation for community members and law enforcement.

CRS PROTECTING PLACES OF WORSHIP

<https://www.justice.gov/file/1058496/download>